

Service Date: May 4, 1993

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER Of Shell Western E&P )	
Inc., A large Industrial Customer )	
of Montana-Dakota Utilities )	UTILITY DIVISION
Company for a Declaratory Ruling )	
on the Applicability of Electric )	
Rate Schedule 30 to Shell Western )	DOCKET NO. 93.1.4
E&P Inc.'s Purchase of Electric )	
Energy. )	

DECLARATORY RULING

Introduction

1. On January 27, 1993 the Montana Public Service Commission (Commission) received a Petition for Declaratory Ruling from Shell Western E&P Inc. (Shell or Petitioner). The Commission issued its Notice of Petition on February 8, 1993, inviting written comments from Montana-Dakota Utilities Company (MDU) and Montana Consumer Counsel (MCC) by March 1, 1993. Only MDU filed written comments.

Question Presented

2. Shell requested the ruling on whether it should be able to receive service under MDU's present Electric Rate 30 for Large General Electric Service. Shell receives service under MDU's Mandatory Time-of-Day Industrial Electric Service Rate 32.

Facts Presented

3. Shell Western E&P, Inc., a subsidiary of Shell Oil Company, operates the Cedar Creek Anticline Unit (Unit) consisting of four major operating areas -- Pine, Cabin Creek, Pennel and Little Beaver. Shell is engaged in exploration, drilling and production in these areas. The Unit includes 11 fields stretching over 77 miles and totaling about 308 square miles in Montana and North Dakota. Shell produces about 17,000 barrels of oil per day from this Unit.

4. Shell purchases electric energy to operate its oil-producing facilities from MDU pursuant to an Agreement dated June 1, 1978 between MDU and Shell Oil Company, Shell Pipe Line Corporation and Butte Pipe Line Company as "Purchasers." MDU filed what is now Rate 32 pursuant to a Commission directive in a general rate case to submit a tariff for the industrial class of customers receiving power at a contract rate. (Order No. 4467, Docket No. 6567, FOF No. 53, issued December 20, 1978.) Only Shell, Butte Pipeline Company and Shell Pipe Line Corporation purchase electricity under Rate 32, Mandatory Time-of-Day Electric Service.

5. In 1991 Shell purchased approximately 127 MWH of electric service from MDU for \$5,715,432. Shell does not have the figures for 1992. MDU furnishes the electric service to 11 different substations located throughout the Unit in Montana. MDU installed meters at each substation where it meters the

demand and electric energy on the low voltage side of each point of delivery.

6. Shell owns, operates and maintains its distribution facilities from the point of delivery of electric service by MDU to its oilfield facilities. The Agreement of June 1, 1978 provides that MDU may use Shell's distribution facilities to provide electric service to other of MDU's customers for a wheeling charge. MDU uses Shell's distribution facilities to serve Meridian Oil Company, Texaco Trade and Transportation, Wesco Pipeline, Texaco Exploration, American Exploration, and Western Gas Resource, which use the power for oilfield operations at Rate 30, Large General Electric Service.

7. Shell states as a fact that if it had received electric service under Rate 30 instead of Rate 32, during 1991 Shell would have saved over \$1,000 per day in electric costs, or a total of approximately \$367,000 on an annual basis.

#### Applicable Law

8. Pursuant to Title 69, Chapter 3, Montana Code Annotated (MCA), the Commission exercises jurisdiction over public utilities in establishing rates and providing service. §§ 69-3-101, 69-3-102, 69-3-201, et seq., and 69-3-301, et seq., particularly 69-3-306, MCA, for the classification of service.

9. Public utilities are required to file schedules (tariffs) with the Commission which show all rates, tolls and charges

in force for any service performed within the State. § 69-3-301, MCA. No utility may change a schedule without the approval of the Commission, except upon the passage of nine months if the Commission does not approve a request before that time. § 69-3-302, MCA. A change requires notice and a hearing on the proposed change. § 69-3-303, MCA.

10. A public utility may not deviate from the rates, tolls and charges in the printed, filed schedules. § 69-3-305, MCA. The Commission may prescribe classifications of the service of all public utilities. A public utility is required to conform its schedules of rates, tolls and charges to the classifications. § 69-3-306, MCA. The Commission enforces all rates, fares, charges and classifications fixed by the Commission. § 69-3-110, MCA.

11. Tariffs, therefore, have the force of law. The Commission requires a public utility to provide service pursuant to its filed tariffs and schedules. The tariffs at issue are filed and available as follows:

LARGE GENERAL ELECTRIC SERVICE Rate 30

AVAILABILITY:

In all communities served for all types of general electric service exceeding 50 Kilowatts of billing demand except standby, resale or rate schedules applicable to specific services. The customer's wiring must be arranged so that all service can be measured through one meter. If the customer does not connect his wiring into a single system, each meter shall constitute a separate billing unit.

MANDATORY TIME-OF-DAY INDUSTRIAL ELECTRIC SERVICE Rate 32

## AVAILABILITY:

For industrial power service. The primary use of electricity must be for manufacturing, processing, or producing products for sale and the use of electricity for lighting must be incidental thereto.

Analysis

12. Rate 30 is available for all types of general electric service exceeding 50 kilowatts of billing demand except standby, resale or rate schedules applicable to specific services. Each meter shall constitute a separate billing unit. Shell argues that its purchase of electricity from MDU meets all the requirements for service under Rate 30. "All types of general electric service" would include oilfield operations. Each of Shell's 14 meters exceed 50 kilowatts of billing demand and each meter is a separate billing unit. Shell does not use this electricity for standby or resale. Shell argues that the language "or rate schedules applicable to specific services" does not preclude it from service under Rate 30, even though it qualifies for service under Rate 32.

13. The Commission will examine language and historical application to determine whether Shell could qualify for service under Large General Electric Service Rate 30. The Commission does not agree with Shell's interpretation of the language "or rate schedules applicable to specific services." The exception plainly on its face precludes Shell from qualifying for Rate 30,

since Rate 32 is a rate schedule applicable to specific service for Mandatory Time-of-Day Industrial Electric Service.

14. An analysis of past orders and filed rate schedules reveals why there is a rate schedule specifically applicable to Shell. MDU filed Electric Rate Schedule for Industrial Electric Service as directed by the Commission in Order No. 4467, Docket No. 6567, ¶ No. 53, issued December 20, 1978.

53. ... 4. A tariff shall be submitted for the industrial class of customers currently receiving power at a contract rate. The tariff shall include the contract rates.

In Order No. 4467, ¶ No. 54, the Commission determined that the industrial customers of MDU (Shell Oil Company, Shell Pipeline Company and Butte Pipe Line Company) should be provided the option of marginal based time-of-use rates at the primary voltage level, secondary level or both. At this time the Commission did not have adequate quantitative cost/benefit analysis to mandate time-of-use rates for particular customers.

15. In Order No. 4799c, Docket No. 81.1.2, ¶ No. 96, issued October 20, 1981, the Commission found, based on the record, that the proper approach to time-of-day (TOD) pricing for industrial service (contract customers) was to institute a mandatory TOD Schedule, with optional TOD for other classes. The Commission later clarified an inconsistency occurring in ¶ No. 102, which said that mandatory TOD should apply to all large commercial and industrial customers, including the 15 contract customers and the

11 oilfield power customers (consumption averages greater than 1,000,000 kwh). Based on staff discussions and Commission correspondence in 1982, MDU and the Commission concluded that the Mandatory TOD Electric Rate only applied to the large industrial contract customers. The Commission approved the rate upon filing in December, 1982.

16. In Order No. 5219b, Docket No. 86.5.28, ¶ No. 379, issued April 12, 1987, the Commission denied MDU's request to tariff proposed rates for a High Load Factor General Electric tariff and an optional TOD tariff to the High Load General Electric tariff. Although the MCC concurred with MDU in its request that the time-of-day tariff would be optional for these large customers, the Commission denied the request and continued to require time-of-day to be mandatory for the large industrial class. Order No. 5219b, ¶ No. 375.

17. Based on the preceding history, the Commission determines that Rate 32 is a schedule specifically applicable to service provided to Shell as a large industrial contract customer. Shell argues that its operations are like all the other oilfield operations receiving service under Rate 30. Yet it acknowledges that many of the other oilfield operations receive service from Shell's distribution facilities. In the beginning, unlike these other oilfield operations, Shell had a contract to purchase service from MDU. The contract required three-phase alternating current delivered at a frequency of 60 cycles per

second at 12,500 volts. MDU agreed to deliver all the electric energy purchasers required. MDU agreed to provide specific facilities, including a newly constructed 115-KV transmission line from Glendive to Baker and a 115/57 KV substation at Baker. MDU increased transformer capacity to purchasers' area load requirements at three substations, and constructed a number of 57/12.5 KV substations in Fallon County, a 57-KV electric line beginning at Baker, and other taps, lines and facilities.

18. MDU, in addition to agreeing to provide these facilities, in the 1978 contract also agreed to pay the purchasers/-owners a wheeling charge for the use of the purchasers' distribution facilities -- one mill wheeling charge for each Kwh delivered to other MDU customers. MDU was also required to allow the owners of the distribution facilities 7 percent of the electric energy used by the other customers to cover line and transformer losses. The Petition does not indicate what value Shell has received over the years, but it clearly is not in the same position as the other oilfield operators not owning their distribution facilities.

WHEREFORE, considering the facts presented, the applicable law, the language of the tariffs and the contract between MDU and Shell and the history of the Mandatory Time-of-Day Industrial Electric Service Rate 32, the Commission issues the following ruling.

DECLARATORY RULING

1. The Commission denies Shell's request to apply MDU's Large General Electric Service Rate 30 to service provided to Shell under MDU's Mandatory Time-of-Day Industrial Electric Service Rate 32. Rate 32 is the specific rate schedule applicable to Shell, and therefore Shell does not qualify as a Large General Electric Service Customer. The sequence of Commission orders from 1978 to 1987, as outlined herein, establishes the Commission's clear directive that mandatory time-of-day electric service applies to the large industrial class of customers receiving power at a contract rate, i.e., Shell and other subsidiaries of Shell Oil Company.

2. Shell is not precluded from filing a complaint or presenting evidence in the next general MDU rate case on whether Rate 32 is cost-based. Shell shall carry the burden to demonstrate that the time-of-day tariff applicable to it is not cost-based. Until there is a filing and a determination on the appropriateness of these tariffs, based on cost-of-service studies, the Commission is required by law to enforce the tariffs as filed.

Done and Dated this 29th day of April, 1993 by a vote of 4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

Bob Rowe  
BOB ROWE, Vice Chairman

Dave Fisher  
DAVE FISHER, Commissioner

Nancy McAffree  
NANCY MCSAFFREE, Commissioner

Danny Oberg  
DANNY OBERG, Commissioner

ATTEST:

Kathlene M. Anderson  
Kathlene M. Anderson  
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.